

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

In re: BISPHEENOL-A (BPA))	
POLYCARBONATE)	MDL No. 1967
PLASTIC PRODUCTS LIABILITY)	Master Case No. 4:08-1967-MD-
LITIGATION)	W-ODS
)	

ORDER

This Order is to advise the parties of issues which are of immediate concern.

Appended to this order is the “Tenets of Professional Courtesy” adopted by the Kansas City Metropolitan Bar Association. COUNSEL SHOULD BE AWARE THAT THE COURT EXPECTS ADHERENCE TO THE TENETS BY ATTORNEYS APPEARING IN THIS DIVISION. FURTHER, THE COURT BELIEVES IT TO BE IN THE INTERESTS OF ALL CONCERNED FOR PARTIES TO BE AWARE OF THE COURT’S EXPECTATION. TO THAT END, COUNSEL SHALL FORWARD A COPY OF THE TENETS TO ALL CLIENTS INVOLVED IN THIS ACTION.

1. The Judicial Panel on Multidistrict Litigation has designated this Court as the transferee court for MDL 1967 – In re Bisphenol A (BPA) Polycarbonate Plastic Products Liability Litigation. The actions listed in Schedule A of that Order were transferred to this Court pursuant to 28 U.S.C. § 1407 for coordinated or consolidated pretrial proceedings. For the convenience of the parties and the Court, the Clerk of the Court will maintain a master docket with a single docket number and master record under the style: In re Bisphenol A (BPA) Polycarbonate Plastic Products Liability Litigation, MDL 1967, Master Case No. 4:08-1967-MD-W-ODS.

When an order, pleading, or other document is filed and docketed in this master docket, it shall be deemed filed and docketed in each individual case to the extent applicable and will not be separately docketed in any individual cases. However, the caption shall also contain a notation indicating whether the document relates to all cases or only to specified cases. If a document generally applies to all of the cases in MDL 1967, the caption shall include a notation of “ALL ACTIONS.” If a document applies to a particular case or cases, the caption shall include the Western District of

Missouri case number(s) and the names of the individual case(s) to which it applies in addition to the MDL case number. Additionally, if a document applies only to a particular case or cases, the case number(s) should be indicated in the docket entry text when the pleading is electronically filed.

2. All papers filed with the Court must be filed electronically via the ECF system. Information on electronic filing procedures is available on the Court's website at www.mow.uscourts.gov or at <http://ecf.mowd.uscourts.gov>. Counsel are directed to refer to the CM/ECF Civil and Administrative Procedures Manual for instructions regarding the handling of exhibits. You may also contact Bill Terry, Operations Manager, at (816) 512-5055, to obtain an account and instructions on electronic filing.

3. Counsel are advised to review the docket to ensure that their appearances have been entered. If an attorney is not listed on the docket, he or she should file a notice of appearance in the MDL case. Motions to appear pro hac vice are not required. Any attorney not listed on the docket sheet and not registered to use the electronic filing system will not receive notice from the Clerk's Office of orders and other documents filed by the Court.

4. The parties shall file submissions formally notifying the Court of their selections of lead counsel, members of "committees of counsel," etc. The Notifications should include a statement indicating the responsibilities and powers of such individuals or groups.

5. All submissions to the Court shall be in the form of motions, captioned, filed, and served as set forth in this Order. Notices of motions shall not be filed.

6. No motion shall be filed under Federal Rule of Civil Procedure 11, 12, or 56 without leave of Court.

7. The parties are directed to meet and confer to develop a Joint Proposed Discovery Plan, which shall be filed with the Court on or before October 6, 2008. If the parties cannot agree on particular aspects of the Proposed Plan, they should file a statement indicating the aspects upon which they disagree and setting forth their respective positions.

8. The parties are directed to meet and confer to develop a report describing the lawsuit and preliminarily identifying the legal and factual issues that must be addressed or resolved while the case is consolidated in this Court. The report should be filed on or before October 6, 2008.

9. Defendant's lead counsel shall develop a statement identifying, for each defendant, all parent companies, subsidiaries (except wholly owned subsidiaries) and affiliates that have issued shares to the public. If a defendant has no parent companies, subsidiaries, or affiliates, lead counsel shall so indicate with respect to that defendant. See Local Rule 3.1. This statement must be filed on or before October 6, 2008.

10. Once the parties have exchanged the disclosures required by Rule 26, they shall file a notice to that effect. The parties are encouraged to complete their disclosures as soon as possible.

11. A Scheduling Hearing will be held on November 18, 2008, at 8:00 a.m. The topics to be discussed at the hearing include

- a. the parties Joint Proposed Discovery Plan;
- b. the need for court orders related to preservation of documents and other evidence, creation of a website or document repository, or other methods of preserving and centralizing evidence; and
- c. the wisdom of requiring "Plaintiff fact sheets," mandatory disclosures, or other requirements for cases added as "tag-alongs" by the MDL Panel.
- d. The need for, and time frame for filing, consolidated or "Master" complaints, answers, or other pleadings.

Attendance by each party at the hearing is not required nor prohibited, although it is required of all attorneys acting as lead counsel.

12. The deadline for the filing of answers is suspended pending further order of the Court.

13. Proceedings will comply with the Western District of Missouri Local Rules. For convenience, the Local Rules are posted on the Court's website at www.mow.uscourts.gov.

IT IS SO ORDERED.

DATE: September 4, 2008

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT

TENETS OF PROFESSIONAL COURTESY

I.

A LAWYER SHOULD NEVER KNOWINGLY DECEIVE ANOTHER
LAWYER.

II.

A LAWYER SHOULD HONOR PROMISES OR COMMITMENTS MADE
TO ANOTHER LAWYER.

III.

A LAWYER SHOULD MAKE ALL REASONABLE EFFORTS TO
SCHEDULE MATTERS WITH OPPOSING COUNSEL BY AGREEMENT.

IV.

A LAWYER SHOULD MAINTAIN A CORDIAL AND RESPECTFUL
RELATIONSHIP WITH OPPOSING COUNSEL.

V.

A LAWYER SHOULD SEEK SANCTIONS AGAINST OPPOSING
COUNSEL ONLY WHERE REQUIRED FOR THE PROTECTION OF THE
CLIENT AND NOT FOR MERE TACTICAL ADVANTAGE.

VI.

A LAWYER SHOULD NOT MAKE UNFOUNDED ACCUSATIONS OF
UNETHICAL CONDUCT ABOUT OPPOSING COUNSEL.

VII.

A LAWYER SHOULD NEVER INTENTIONALLY EMBARRASS ANOTHER
LAWYER AND SHOULD AVOID PERSONAL CRITICISM OF ANOTHER
LAWYER.

VIII.

A LAWYER SHOULD ALWAYS BE PUNCTUAL.

IX.

A LAWYER SHOULD SEEK INFORMAL AGREEMENT ON
PROCEDURAL AND PRELIMINARY MATTERS.